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U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

November 17, 2007

By Facsimile (212-805-6304)

The Honorable Paul A. Crotty
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Re: United States v. Marvin McFoy, et al., 05 Cr. 1311 (PAC)

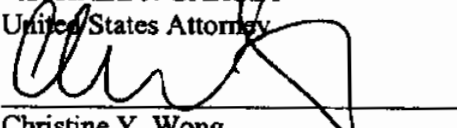
Dear Judge Crotty:

On November 7, 2007, the defendant was arraigned before Magistrate Judge James C. Francis IV. Magistrate Judge Francis ordered that the defendant be released upon satisfaction of the following bail conditions: \$100,000 personal recognizance bond to be co-signed by four financial responsible persons, travel restricted to the Southern and Eastern Districts of New York, strict pre-trial supervision, and a curfew from 9 p.m. to 6 a.m. The defendant was subsequently released on bail. Mildred Santana, an officer with Pre-Trial Services has informed the Government that she is unable to monitor the curfew requirements ordered by Magistrate Judge Francis because the defendant does not have a home telephone. As such, the Government respectfully requests that either the defendant be required to obtain a home telephone so that Pre-Trial Services can monitor the defendant's compliance with the curfew requirement, or the defendant be required to report three times a week, in-person to Pre-Trial Services.

Very truly yours,

MICHAEL J. GARCIA
United States Attorney

By:


Christine Y. Wong
Assistant United States Attorney
(212) 637-2460

*Bail conditions will be new defined
so that Mr. McFoy must report two
times per week to Pre Trial Services in
person. Additionally, he must call in three
times per week from his cell phone and state
that any telephone report is inaccurate
his bail will be revoked so released 11/20/07
Paul Muller
USDS*

MEMO ENDORSED

MEMO ENDORSED

cc: Robert Baum, Esq. (by facsimile, 212-571-0392)
Mildred Santana (by facsimile, 212-805-4175)

**Federal Defenders
OF NEW YORK, INC.**

Southern District
52 Duane Street-10th Floor, New York, NY 10007
Tel: (212) 417-8700 Fax: (212) 571-0392

Leonard F. Joy
Executive Director

November 17, 2007

Southern District of New York
John J. Byrnes
Attorney-in-Charge

BY FACSIMILE

Honorable Paul A. Crotty
United States District Judge
Southern District of New York
500 Pearl Street, Room 735
New York, New York 10007

**Re: United States v. Marvin McFoy
05 Cr. 1311 (PAC)**

Dear Judge Crotty:

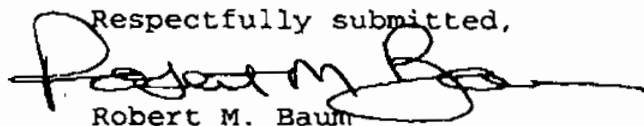
I write on behalf of my client to briefly provide the Court with some information related to the letter from Christine Y. Wong, Esq., on behalf of the Government, related to the inability to monitor Mr. McFoy's 9 P.M. to 6 A.M. curfew as a condition of bail.

Mr. McFoy possesses a cell phone but does not have enough money to also purchase a home (land line) phone and plan. Pre-Trial Services seeks a land line because it is easier to monitor compliance with the curfew, however, electronic monitoring of a curfew is not regularly imposed as a condition of curfew and is unwarranted here. Mr. McFoy understands his obligations under the curfew, has a young daughter at home, and has no intention of violating the Court's order.

If the Court finds that additional reporting is warranted, the recommendation of three times a week is excessive and also unwarranted. That would mean that Mr. McFoy must travel from the Bronx to lower Manhattan every other day, which consumes approximately a half day of his time. In addition, such reporting requirements do not address the issue of a curfew and therefore seems excessive. He already reports once per week without incident.

We seek request that the Court Order for curfew remains as is, without electronic monitoring.

Respectfully submitted,



Robert M. Baum

cc: Christine Y. Wong, AUSA